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12 Attorneys for Defendant
13 C&H SUGAR COMPANY, INC.

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

16 JAMES TROY WALKER,

17 Plaintiff,

18 v.

19 PACIFIC MARITIME ASSOC.; MARINE
20 TERMINALS CORP.; PACIFIC C&H
21 SUGAR COMPANY, INC.;
22 INTERNATIONAL LONGSHORE UNION
23 LOCAL 10,

24 Defendants.

CASE NO. C 07-03100 BZ

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT C&H'S
MOTION TO DISMISS**

Hearing Date: September 19, 2007

Time: 10:00 A.M.

Courtroom: G, 15th Floor

Magistrate Judge Bernard Zimmerman

25 In support of its motion to dismiss, Defendant C&H Sugar Co., Inc. ("C&H"),
26 respectfully requests that the Court take judicial notice of the following pursuant to Rule 201(b)
27 of the Federal Rules of Evidence:

28 1. U.S. Equal Employment Opportunity Commission Notice of Charge of
Discrimination as to Defendant C&H dated May 4, 2007. Attached hereto as Exhibit A.

Defendant C&H asserts that judicial notice of the above-referenced documents is proper
under Rule 201(b) of the Federal Rules of Evidence because the documents are public records
and records of state administrative bodies. Accordingly, the contents of the above documents
and the various dates of filing or service of same are "capable of accurate and ready
determination by resort to sources whose accuracy cannot be reasonably questioned." *Interstate*

1 *Natural Gas Co. v. Southern California Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1953) (court may
2 take judicial notice of “records and reports of administrative bodies”); *Wilton v. San Francisco*,
3 1992 U.S. Dist. LEXIS 19439 (N.D. Cal. 1992) (taking judicial notice of EEOC and DFEH
4 Right-to-Sue letters for purposes of motion to dismiss).

5 Moreover, since Walker makes reference in his Complaint to the Complaints of
6 Discrimination he filed with the DFEH (or EEOC) (see Exhibit A, Complaint ¶ 8), judicial notice
7 of these documents is proper. See *In Re Stac Electronics Securites Litig.* 89 F.3d 1399, 1405, fn.
8 4 (9th Cir. 1996) (“Documents whose contents are alleged in a complaint and whose authenticity
9 no party questions, but which are not physically attached to the pleading, may be considered in
10 ruling on a Rule 12(b)(6) motion to dismiss.”)

11
12 DATED: July 23, 2007

EPSTEIN BECKER & GREEN, P.C.

13
14 By: _____

15 Steven R. Blackburn
16 Matthew A. Goodin
17 Rachel S. Hulst
18 Attorneys for Defendant
19 C&H Sugar Company
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EXHIBIT A

EEOC FORM 131 (5/01)

U.S. Equal Employment Opportunity Commission

Mr. Marvin Bryant
Personnel Manager, Dir.
C & H SUGAR
830 Loring Ave
Crockett, CA 94525

PERSON FILING CHARGE

James T. Walker

THIS PERSON (check one or both)



Claims To Be Aggrieved



Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

555-2007-00585

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:



Title VII of the Civil Rights Act



The Americans with Disabilities Act



The Age Discrimination in Employment Act



The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☒ No action is required by you at this time.
2. ☐ Please call the EEOC Representative listed below concerning the further handling of this charge.
3. ☐ Please provide by _____ a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. ☐ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by _____ to _____

If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Julian F. Melendres,
Investigator Support Asst

EEOC Representative

Telephone (510) 637-3242

Oakland Local Office
1301 Clay Street
Suite 1170-N
Oakland, CA 94612

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



AGE



DISABILITY



RETALIATION



OTHER

See enclosed copy of charge of discrimination.

Date

May 4, 2007

Name / Title of Authorized Official

Michelle L. Nardella,
Director

Signature

M

Jm

TO: Whom It May Concern,

FROM: J. T. Walker,

DATE: April 25, 2007

EEOC CHARGE # 555-2007-00585

CHARGING PARTY: WALKER, James T.

RESPONDENT: C & H Sugar

On May 01, 2002

I J. T. Walker was working in Crockett Calif. on sugar ship at C&H Sugar for Marine Terminal. When backhoe operator came from water side where he was working over to port side where I was working and spong backhoe around harder than Barry Bones swing that hit 6 foot scraper that was leaning against wall into right eye and face. I was knocked unconscious for 1 or 2 mintues. I sustained a traumatic brain injury while performing my work duties as a longshoreman. I was subsequently followed in the Occupational Medical Clinic for post-concussion syndrome. Calhoun was backhoe operator in which I saw in Longshore Hall and he said he would never apologize because backhoe malfuction.

I was diagnose from my Doctors in which I have Brain Damage, Ears Ringing 24/7. Rest of my life Nerve damage, Headaces mild to severe everyday. Vomiting from sever headaces from time to time. Sleeps 2 to 4 hours a night every since head injury. Severe anger rages from pain of headaces. Dislocated Spinal Cord C2 through C7 Dizziness and Balance off. Knee operation on both knees, constant back pain, neck pain, shoulder pain. Has short term memory problems, ataxia, etc. I have been unable to work since 05-01-02 and I am Permanently stationary disable from longshore work or any work. I have been living on Social Security and Savings for last 2 years an 7 months which is very stressful for a man with brain injury.

James T. Walker

I declare under penalty of perjury that the above statements are true and correct.

04-27-07

DATE:



SIGNATURE:

RECEIVED

MAY 04 2007

EEOC - OLO